IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 21146 of 2004

Between:

M.J.Nirmalamma, W/o Christopher,

Aged about 35 years, Occ: F.P.Shop Dealer,
R/o D.No.22-99, Dhone, Kurnool District.

..... PETITIONER

AND

1 The Joint Collector, Kurnool, Kurnool District.
2 The Revenue Divisional Officer, Dhone, Kurnool District.
3 The Mandal Revenue Officer, Dhone Mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in issuing the proceedings in Rc.B.1494 of 2004 dt.7-11-2004 as illegal, arbitrary, and violative of principles of natural justice and also against the provisions of Control Order 2001 and consequently direct the respondents to restore the authorization of the petitioner by suspending impugned proceedings pending the appeal before the 1st respondent.

Counsel for the Petitioner: MR.K.V.RAGHU VEER

Counsel for the Respondent Nos.1 to 3: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

The petitioner is an authorized dealer of the fair price shop of 23rd ward of Dhone Town of Kurnool District. Her authorization was suspended by the Revenue Divisional Officer, Dhone, kurnool District, by proceedings dated 07.11.2004 on the basis of the report of the Mandal Revenue Officer, Dhone dated 16.10.2004, sating that the petitioner has been indulging in several irregularities in distribution of the essential commodities to the card holders. Against the said order of suspension, dated 07.11.2004, the petitioner preferred an appeal before the 1st respondent/Joint Collector, Kurnool, along with an application for stay. However, the 1st respondent has not considered the said appeal and no orders have been passed even on her application for stay. Hence this writ petition.

2. The learned counsel for the petitioner contends that the order of suspension dated 07.11.2002 issued by the 2nd respondent/Revenue Divisional Officer, Dhone is arbitrary and illegal since the petitioner was not afforded any opportunity to rebut the allegations.

3. On a perusal of the impugned order dated 07.11.2004, *prima facie* it appears to be a final order by way of substantive punishment. It is also clear from the said order that the petitioner was not issued any prior notice and no opportunity was afforded to her to explain the allegations. In the circumstances, the balance of convenience lies in favour of the petitioner, and it would be appropriate to allow the petitioner to distribute the essential commodities till the disposal of the statutory appeal.

4. Accordingly, the Writ Petition is disposed of, with a direction to the 1st respondent to dispose of the appeal preferred by the petitioner against the proceedings of the 2nd respondent/Revenue Divisional Officer, Dhone, Kurnool District, dated 07.11.2004 as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order. Till such

time, the proceedings dated 7.11.2004 issued by the 2nd respondent shall not be given effect to. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Joint Collector,
Kurnool, Kurnool District

2. The Revenue Divisional Officer,
Dhone, Kurnool District

3. The Mandal Revenue Officer,
Dhone Mandal, Kurnool District

4. Two CCs to the Government Pleader
for Civil Supplies, High Court Buildings,
Hyderabad (OUT)

5. Two CD copies.